

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 11, “Collection of Public Assistance Debts,” and Chapter 76, “Application and Investigation,” Iowa Administrative Code.

These amendments implement 2011 Iowa Acts, Senate File 313. This legislation amends Iowa Code sections 8A.504, 217.34, 249A.3 and 249J.8 on debt collection to include unpaid premiums assessed by the Department for medical assistance.

Currently, two medical assistance programs, the Medicaid coverage group for working persons with disabilities and the IowaCare program, use a fee schedule for member participation in the cost of medical coverage. In both programs, members with the lowest incomes are not assessed a premium. Working persons with disabilities who have sufficient income must pay the monthly premium before assistance is given and do not have the option to claim hardship for inability to pay the premium.

IowaCare members who are assessed a premium have the opportunity to claim hardship and pay a partial premium or no premium. However, an IowaCare member who neither pays the premium nor claims hardship will have benefits canceled for failure to pay the assessed premiums when a premium remains unpaid after the sixtieth day past the due date. Since the member was eligible during the period for which the premiums were due, this is technically not an “overpayment” as medical assistance debts have customarily been defined.

These amendments make a debt based on unpaid premiums subject to the same collection procedures as a debt for assistance that a member received when ineligible. These collection procedures may include setoff of state tax refunds or other payments.

The amendments also change the due date for the return of verifications for applications from five working days to ten calendar days to align with the due date for the return of all other requested verifications. This change gives applicants more time to submit information and avoid denial of the application for failure to provide necessary information.

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on February 9, 2011, as **ARC 9361B**. The Department received no comments on the Notice of Intended Action. Although that Notice has expired (see Notice of Termination **ARC 9734B** herein), these amendments are identical to those published under that Notice of Intended Action.

The Council on Human Services adopted these amendments on August 10, 2011.

In compliance with Iowa Code section 17A.4(3), the Department finds that notice and public participation are unnecessary because these amendments were published under Notice of Intended Action previously. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(3).

The Department finds that the prompt implementation of statutory directives on recoupment of unpaid premiums confers a public benefit and that the extension of time for returning verification confers a benefit on Medicaid applicants. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 8A.504, 217.34, 249A.3 and 249J.8 as amended by 2011 Iowa Acts, Senate File 313.

These amendments became effective on September 1, 2011.

The following amendments are adopted.

ITEM 1. Amend rule **441—11.1(217)**, definition of “Debtor,” as follows:

“*Debtor*” shall mean a current or former recipient of public assistance that has been determined by the department to be responsible for the repayment of a particular debt. For food assistance, “debtor” shall include all adult members of the food assistance household participating at the time the food

assistance overpayment or program violation occurred and shall include nonrecipients found guilty of violating food assistance program rules by committing an act such as, but not limited to, trafficking. For child care assistance, “debtor” may include the current or former provider or current or former recipient of child care assistance. For Medicaid, “debtor” shall include the any Medicaid member and any or nonmember who fraudulently receives services or owes a debt of unpaid premium payments for medical assistance.

ITEM 2. Amend subrules 76.2(4) and 76.2(5) as follows:

76.2(4) *Providing additional information.* The department shall notify the applicant in writing of additional information or verification that is required to establish eligibility. This notice shall be provided to the applicant or member personally or by mail or facsimile.

a. The department shall allow the applicant ~~five working~~ ten calendar days to supply the information or verification requested. Applicants for whom eligibility is determined in whole or in part by the Social Security Administration shall make application to the Social Security Administration within ~~five working~~ ten calendar days of referral by the department.

b. to d. No change.

76.2(5) *Reporting of changes.* The applicant shall report any change as defined at 441—paragraph 75.52(4)“c” which occurs during the application process within ~~five working~~ ten calendar days of the change. Changes that occur after approval for benefits shall be reported in accordance with 441—paragraph 75.52(4)“c.”

ITEM 3. Amend subrule 76.10(3) as follows:

76.10(3) A report shall be considered timely when received by the department:

a. Within ten calendar days from the date the change is known to the member or authorized representative; or

b. Within ~~five~~ ten calendar days from the date the change is known to the applicant or authorized representative.

ITEM 4. Adopt the following **new** definition in subrule **76.12(1)**:

“*Premiums paid for medical assistance*” means monthly premiums assessed to a member or household for Medicaid or IowaCare coverage.

ITEM 5. Amend subrules 76.12(2) and 76.12(3) as follows:

76.12(2) *Amount subject to recovery.* The department shall recover from a client all Medicaid funds incorrectly expended to or on behalf of the client and all unpaid premiums assessed by the department for medical assistance. The incorrect expenditures or unpaid premiums may result from client or agency error; or administrative overpayment.

76.12(3) *Notification.* All clients shall be promptly notified on Form 470-2891, Notice of Medical Assistance Overpayment, when it is determined that assistance was incorrectly expended or when assessed premiums are unpaid.

a. Notification of incorrect expenditures shall include:

- (1) ~~for~~ For whom assistance was paid;
- (2) ~~the time~~ The period during which assistance was incorrectly paid;
- (3) ~~the~~ The amount of assistance subject to recovery; and
- (4) ~~the~~ The reason for the incorrect expenditure.

b. Notification of unpaid premiums shall include:

- (1) The amount of the premium; and
- (2) The month covered by the medical assistance premium.

[Filed Emergency 8/15/11, effective 9/1/11]

[Published 9/7/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 9/7/11.